



March 14, 2018

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**VIA FEDEX AND E-MAIL
VIA E-MAIL (CHATFIELD.ETHAN@EPA.GOV)**

FOR SETTLEMENT PURPOSES ONLY

Ethan Chatfield
Attn: Compliance Tracker, AE-18J
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Re: **Rural King's Response to EPA's Request for Information under § 208(a) of the Clean Air Act, 42 U.S.C. § 7542(a)**

Dear Ethan:

R.K. Transportation, LLC ("RKT" or "Company") hereby submits this written response and attached information (collectively the "Response") to the January 23, 2018 Request for Information pursuant to Section 208(a) of the Clean Air Act (the "CAA"), 42 U.S.C. § 7542(a) (the "Request") from the United States Environmental Protection Agency ("EPA" or the "Agency"), relating to the Company's vehicles or engines regulated under CAA including, but not limited to, heavy-duty diesel engines. This Response is being timely submitted pursuant to an extension of time received by RKT to provide responses to requests 3, 4, 5, 6, 7, and 9.

Consistent with its previous responses, RKT and separate and distinct Rural King affiliates have undertaken a thorough investigation to identify available documents and/or other information in its possession, custody, or control that are responsive to the Request. That investigation remains ongoing. Current and former RKT employees with personal knowledge of the matters addressed in the Request were identified and contacted. Each response is based on the personal knowledge of RKT representatives and a review of currently available documents and information. As part of the RKT's review for this Request and EPA's November 7, 2017 information request, RKT only searched for and/or reviewed text messages that were identified during the Company's interviews or otherwise discovered and that are responsive to EPA's requests relating to the Agency's inspection on May 11, 2017.

RKT has endeavored to answer each request based on its good faith efforts to interpret and respond to the Request. The enclosed information is being provided to EPA voluntarily, and RKT reserves any rights and defenses available to it under the law, including those based on the objections

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contained in **Attachment A** to this Response. Additionally, nothing in this Response should be construed as an admission of any liability or responsibility on the part of RKT.

Lastly, current and former RKT employees have been consulted in developing the Response to EPA's Request. The following individuals provided information: Rick Choate, Ted Sells, Travis Read, Dustin Salmons, Blake Daniels, James Marshall, Alex Gorrell, and Joe Wolff.

Responses to EPA Appendix B Requests:

Subject to and without waiving all objections provided in **Attachment A** and below, RKT submits the following information to EPA, pursuant to Section 208(a) of the CAA, 42 U.S.C. § 7542, as it pertains to activities at any location owned, leased, and/or operated by RKT:

Request 3:

Rather than limiting your response to EPA's November 6, 2017 request for maintenance records for RK's trucks 135, 158, and 166 to "the date of EPA's Clean Air Act Inspection on May 11, 2017" (see Request no. 7), provide all maintenance records, or narrative descriptions, for all work completed for the entire month of May for each vehicle to ensure all available, relevant work is described. Provide a detailed description for when (what date and time), why (the reason/what kind of maintenance), and how (through maintenance records and/or description) these trucks were located in or near the maintenance shop situated at Rural King's Waverly, Ohio distribution center (Shop).

Response 3:

Please see response 4 below. RKT has provided the maintenance records for Trucks 135, 158 and 166 that are in its possession. Beyond the maintenance records and related information provided in this Response and previous responses to EPA's information requests, the Company is unaware of additional responsive information.

Request 4:

Rural King's response to Request Number 7 of EPA's November, 6, 2017 information request was incomplete. As previously requested, provide information identifying who was involved in any communications and/or decision(s) to move each vehicle into the Shop, who was involved in moving and/or performing any work on the trucks; and who was involved in (communicating, sending, receiving or responding to) any decisions or communications about which vehicles to move into (or out of), or keep in (or out of), the Shop and/or make available for EPA inspection.

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Response 4:

To provide additional factual information relating to the events surrounding EPA's inspection on May 11, 2017 and respond to the Request, RKT reviewed available documents beyond standard maintenance records, such as parts invoices. Based on RKT's parts invoices, Trucks 135 and 166 had parts ordered on May 8, and May 9, 2018, respectively. The Company's view is that Trucks 135 and 166 were in the Waverly maintenance shop on May 11, 2017 to install the parts reflected on the invoices. RKT did not locate a specific parts invoice that it can directly connect to Truck 158. The Company's view is that the contemporaneous parts invoice for Trucks 135 and 166 support the Company's position that any movement of Trucks 135 and 166 during the timeframe of EPA's inspection were performed for maintenance purposes only.

Based on parts invoices and interviews, RKT's view is that both modified Trucks 74 and 120 were in the maintenance shop on May 11, 2017. RKT found parts invoices for Trucks 74 (May 10, 2017 invoice) and 120 (March 9 (for the turbo) and May 9, 2017 invoices). RKT's review of PeopleNet records indicated that Truck 74 was out of commission from May 1, 2017 to May 11, 2017 and Truck 120 was out of commission from May 6 to May 17, 2017. Dustin Salmons was at the Waverly maintenance shop on May 10 and 11, 2017 to install a clutch on a truck. During the inspection, Dustin explained to the inspectors that two trucks located in the maintenance shop were inoperable. Of the two trucks, one needed a turbo installed and another truck had a valve seat that fell into a piston. The parts invoice for Truck 74 was for clutch parts while the parts invoices Truck 120 was for the turbo, O-ring and axle. RKT was unable to find additional parts invoices that would correspond to the valve seat work (which required an engine replacement) and therefore, does not know the truck to which that work pertains. All parts invoices referenced herein are provided within the enclosed flash drive.

Within the enclosed flash drive, RKT is also providing an Excel spreadsheet containing information generated by the PeopleNet software that indicates other trucks that were present at the Waverly facility on May 11, 2017 during the timeframe of the inspection. These records indicate that modified Trucks 98 and 124 (in addition to approximately 23 other trucks) were at the Waverly facility on May 11, 2017 during the timeframe of EPA's inspection. Please note that the time entries on this Excel spreadsheet are in Eastern Standard Time ("EST").

In addition, RKT interviewed Blake Daniels, a mechanic for RKT. Blake is the only mechanic that was at the Waverly facility on May 11, 2017 (the other three mechanics that were there are Rob Wright, Zack Wright and Dusty Henry) that is still employed by RKT.

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According to Blake, he was not given nor is he aware of anyone giving instructions to him or the other mechanics to move trucks into or out of the maintenance shop on May 11, 2017 during the timeframe of EPA's inspection. In general, Blake indicated that trucks that required maintenance would be brought directly to the maintenance shop by the truck drivers or parked in the parking lot outside of the maintenance shop and moved into the shop by mechanics as they were ready to perform maintenance.

RKT also interviewed the drivers of Trucks 135 (James Marshall) and 158 (Alex Gorrell). Neither driver was aware of the EPA inspection until after it had occurred. Jim recalls the hood strut issue reflected on the parts invoice for Truck 135 and that he told one of the Waverly mechanics about the issue. Alex could not specifically recall the maintenance work that was performed on May 11, 2017 but he indicated that he routinely had the Waverly mechanics perform general maintenance such as an oil change. Jim and Alex also indicated that when maintenance was to be performed on trucks, he would bring the truck to the maintenance shop and the mechanics would either have him bring the truck immediately into the shop or he would park the truck in the parking lot for the mechanics to bring it into the shop.

To the extent that any trucks were moved into or out of the maintenance shop on May 11, 2017, RKT's view is that this movement would have been done for general maintenance purposes. Any decisions or communications relating to moving trucks into or out of the maintenance shop on May 11, 2017 would have involved the mechanics and/or truck drivers. RKT, however, is not aware of specific communications on these issues.

Moreover, as noted in the communications we provided in RKT's December 13, 2017 response and the Company's response to request 8 on February 28, 2018, neither Dustin nor any other RKT personnel were given instructions to move trucks into or out of the Waverly maintenance shop to hinder EPA's inspection.

Request 5:

In response to EPA's November 6, 2017 Information Request, Req. No. 8, Rural King submitted 3 .pdf documents detailing the whereabouts of trucks 135, 158, and 166. Describe the origin of the spreadsheets and the means through which these records were generated. Provide headers (and a description, with units specified where applicable, of each column). For time stamps, specify the applicable time zone. Provide an explanation for how the start time and end times are determined for each day for each truck. Within the filename -RTK00002872-RTK00002872.pdf," for the time period '05/11/17 09:38' to '05/11/17 15:38,' the font is too pale to read. Provide a legible copy of the original record.

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Response 5:

The documents RKT provided in the December 13, 2017 response to request 8 was a print-out of information generated by the PeopleNet software. RKT purchased this software in order to track the amount of time in which truck drivers are operating their trucks to ensure that they do not exceed the driving timeframes required by the U.S. Department of Transportation regulations.

As part of response 6, RKT has provided a revised version of the documents the Company previously provided relating to Trucks 135, 158 and 166. This Excel version contains a title for each column. The applicable time zone for the spreadsheet is Central Standard Time ("CST"). Within the spreadsheets provided for response 6, is information that denotes in various columns, among other things, the date and time of the entry, whether the truck's ignition has been turned on or off, the distance the truck moved pursuant to the odometer, and the general location of the truck at the time of the entry.

Request 6:

In response to EPA's November 6, 2017 Information Request, Req. No. 8, Rural King stated that "Trucks 135 and 158 were not moved during the time frame of EPA's inspection." Define what you meant by 'time frame.' If either truck was moved for any reason on May 11, 2017, specify the time and exact location of each such movement. Truck 166 was "moved a short distance prior to EPA's arrival for maintenance purposes. After EPA arrived, it was moved once more for maintenance purposes." Provide a detailed description of these relocations, addressing the following questions:

Prior to EPA's arrival:

- (a) where exactly was Truck 166 located and for what purpose?
- (b) to where was Truck 166 moved?
- (c) at what time was Truck 166 moved?
- (d) what was the approximate distance Truck 166 was moved?

After EPA's arrival:

- (a) to where was Truck 166 moved?
- (b) at what time was Truck 166 moved?
- (c) what was the approximate distance Truck 166 was moved?

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Did you move any trucks out from the Shop, from within the distribution center warehouse bays (located adjacent to the Shop), or from the parking areas just outside of the Shop on the day of the EPA inspection? And if so, which truck numbers and at what time were the trucks moved? Provide a detailed explanation of why, when, and where each truck was moved

Response 6:

See response 4.

The PeopleNet records provide general information as to the general location of the trucks but not specific information as to where exactly Trucks 135, 158, and 166 were located at the Waverly facility.

RKT's reference to the timeframe of EPA's inspection is from 12:15 pm EST when EPA arrived until 3:35 pm EST when EPA left, as referenced in EPA's June 22, 2017 inspection report.

The timeframe and location for the movement of Trucks 135, 158, and 166 on May 11, 2017 are set forth in the updated PeopleNet documents provided within the enclosed flash drive in response to request 6.

RKT has a correction to make relating to the movement of Trucks 135, 158 and 166 between 12:15 pm and 3:35 pm EST. These corrections are made because RKT previously believed that the times listed on the PeopleNet records set forth in response 6 were in EST. Based on the Excel version of the PeopleNet records provided in response 4, Trucks 135, 158 and 166 were moved as follows during the timeframe of the EPA inspection:

- Truck 135 moved 0.03 miles at 1:15 pm EST.
- Truck 158 was traveling and arrived back the Waverly facility at 12:46 pm EST. As part of its return, Truck 158 is recorded as moving an additional 0.34 miles at 12:54 EST.
- Truck 166 was moved 0.13 miles at 12:38 pm EST and 0.25 miles at 1:44 pm EST.

According to the PeopleNet records, Truck 135 began operating to deliver and pick-up goods in Kingston, Ohio at 9:44 am EST. From there, the truck traveled short distances until it arrived at the Waverly facility at 10:13 am EST. After that, Truck 135 had the minimal movement referenced above during the timeframe of the EPA inspection and was not operated again until 7:09 pm EST.

According to the PeopleNet records, Truck 158 began operating to deliver and pick-up goods at 1:01 am EST at the Waverly facility. From there, the truck traveled to parts of

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Ohio and Indiana before returning to the Waverly facility at 12:46 pm EST. Other than the additional movement referenced above during the timeframe of the EPA inspection, Truck 158 was not operated for the remainder of the day

According to the PeopleNet records, Truck 166 began operating to deliver and pick-up goods at 1:06 am EST in Grayson, Kentucky. From there, Truck 166 continued to operate until it arrived at the Waverly facility at 10:38 am EST. After EPA arrived at 12:15 am EST, Truck 166 moved as referenced above.

Request 7:

Did you move any trucks out from the Shop, from within the distribution center warehouse bays (located adjacent to the Shop), or from the parking areas just outside of the Shop on the day of the EPA inspection? And if so, which truck numbers and at what time were the trucks moved? Provide a detailed explanation of why, when, and where each truck was moved.

Response 7:

Other than the information provided in this Response and previous RKT responses, the Company is unaware of further information as to which trucks were moved into or out of the maintenance shop or around the various locations of the Waverly, Ohio facility.

Request 9:

Has RK destroyed or disposed of any records related to ECM tuning, removal of any emission control component, or any record that discusses, references, or is associated in any way with EPA's May 11, 2017 inspection or its follow-up information requests? If yes, please describe what records were destroyed or disposed of, the date of such destruction/disposal and the reason for such destruction/disposal.

Response 9:

As part of RKT's compliance plan, the Company is currently keeping manual records of maintenance work and will develop standard protocols to maintain comprehensive maintenance records for their trucks. As discussed, RKT did not routinely generate or maintain comprehensive records of maintenance performed in the past and there was no document retention protocol.

Based on RKT's interviews, there are three incidents of which RKT is aware where documents potentially responsive to this Request or previous EPA requests for information were not retained.

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- When Ted Sells began working for the Company in May 2014, he believes that he may have discarded some PDI waiver forms (both signed and blank) and ECM tuning worksheets that were located in the desk he took over.
- Next, as previously discussed, PDI required RKT to send signed waiver forms provided to the Company by PDI before they would conduct the ECM tuning work. In general, the Company's understanding is that RKT faxed or scanned signed waiver forms to PDI and then discarded them. The Company has, however, provided the signed and unsigned PDI waiver forms that are in its possession to EPA as part of the Company's August 31, 2017 response.
- Finally, in September 2017, RKT requested employees using Company phones to turn in their phones as the Company was switching service providers from Verizon to Sprint. Rural King was switching service providers in order to enable employees to use certain apps being developed by the company. At this time, Travis Read returned his phone to RKT and the phone was subsequently turned into Sprint. The brief text exchanges between Travis Read and Dustin Salmons that occurred on May 11, 2017 were inadvertently discarded. According to Dustin Salmons, the brief text exchanges referred generally to the identity of the three trucks that were inspected by EPA. As previously discussed, there was a litigation hold in place at the time.

Despite the incidents noted above, RKT has not intentionally destroyed or discarded any documents with the intent to impede the Company's ability to provide responsive information to EPA's information requests.

Very truly yours,



Thor W. Ketzback
Partner

TWK:lac

Attachment A

General Objections

RKT asserts the following General Objections to the Request, which are hereby incorporated in each and every response of Respondent RKT to the individual requests above. To the extent that RKT responds to questions, any objections are not waived by the furnishing or providing of information.

1. RKT objects to the Request to the extent the Request exceeds the scope of EPA's authority under the statutory references cited in the Request.
2. RKT objects to the Request to the extent it seeks information protected from disclosure by the attorney-client privilege. Any inadvertent production of the same shall not be deemed a waiver of any such privilege or doctrine.
3. RKT objects to the Request to the extent that it asks the Company to make legal conclusions.
4. RKT objects to the Request to the extent that it seeks information outside of the Company's possession, custody, or control.
5. RKT objects to the Request to the extent it seeks confidential and/or personal information regarding third parties, such as current or former RKT employees.
6. RKT has made a diligent, thorough, and good faith effort to interview employees, review its paper and electronic files, and obtain documents and information responsive to the Request. However, certain responses to the Request are based on the best information available, and RKT reserves its right to supplement this Request. Additionally, Rural King submits its Response without waiving, and intending to preserve all of:
 - a. its objections to the competency, relevancy, materiality, authenticity, and admissibility of any documents produced, testing performed, or to the subject matter thereof;
 - b. its rights to object on any ground to the use of any information disclosed, or the subject matter thereof, in any subsequent proceedings, including any civil or administrative trial based upon the information submitted in this Response or any other action;
 - c. its constitutional rights including without limitation the right to due process;
 - d. its rights to object on any grounds to these information or discovery requests;
 - e. its rights to amend any responses and objections herein; and
 - f. any other rights and objections available at law.

7. RKT objects to the Request to the extent it attempts to impose any continuing duty to supplement these responses on the basis such duty is unreasonable and beyond EPA's authority under Section 208(a). Notwithstanding this objection, RKT reserves the right to supplement, modify, and/or amend this Response if new or additional information is discovered.

EPA Appendix E: Statement of Certification

You are submitting the enclosed documents in response to the U.S. Environmental Protection Agency's ("EPA") Request for Information, issued pursuant to Section 208(a) of the Clean Air Act, to determine compliance with the Clean Air Act and its affiliated regulations.

I certify that I am fully authorized by RKT to provide the above information on its behalf to EPA.

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341.

Date: 3-14-18

Name (Printed): JASON HORTENSHIRE

Signature: [Handwritten Signature]

Title: General Counsel